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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ON THE MOVE, INC.,

Case Number: 08cv2533 (Judge Batts)

Plaintiff,

v.

**ANSWER**

TRUCKNOLOGY, INC. a/k/a  
THE BRONX RENTAL CORP. and  
EUGENE GREENBAUM,

Defendants.  
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Defendants **TRUCKNOLOGY, INC.** incorrectly sued herein as TRUCKNOLOGY, INC. a/k/a THE BRONX RENTAL CORP., and **EUGENE GREENBAUM** by their attorneys WHITE, CIRRITO & NALLY, LLP., as and for their Answer to the Complaint of Plaintiff, **ON THE MOVE, INC.**, set forth as follows:

**AS TO THE PARTIES, JURISDICTION and VENUE, and BACKGROUND**

**FIRST:** Deny knowledge or information sufficient to form a belief as to the allegations of the Complaint contained in Paragraphs numbered "1", "4", "7", "10", "22", and "25".

**SECOND:** Deny, upon information and belief, the allegations of the Complaint contained in Paragraph numbered "14".

**THIRD:** Deny each and every allegation of the Complaint contained in Paragraphs numbered "6", "8", "9", "11", "12", "13", "15", "16", "17", "18", "19", "20", "21", "23", "24", "26" and "27".

**FOURTH:** Admit the allegations of the Complaint contained in Paragraph numbered "2", except the location in Yonkers is no longer occupied by Defendant Trucknology.

**AS TO THE FIRST CAUSE OF ACTION- Replevin**

**FIFTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs "1" through "27" with the same force and effect as though the same were set forth at length herein.

**SIXTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered "29", "30", "31", "32", and "33".

**AS TO THE SECOND CAUSE OF ACTION- Injunction**

**SEVENTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs "1" through "27" and "28" through "33" with the same force and effect as though the same were set forth at length herein.

**EIGHTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered "35", "36", "37" and "38".

**AS TO THE THIRD CAUSE OF ACTION- Conversion**

**NINTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs "1" through "27", "28" through "33", and "34" through "38" with the same force and effect as though the same were set forth at length herein.

**TENTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered "40", "41", "42" and "43".

**AS TO THE FOURTH CAUSE OF ACTION**  
**Breach of Contract - Lease Agreements**

**ELEVENTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs "1" through "27", "28" through "33", "34" through "38" and "39"

through “43” with the same force and effect as though the same were set forth at length herein.

**TWELFTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered “45”, “46”, “47” and “48”.

**AS TO THE FIFTH CAUSE OF ACTION**  
**Willful and Intentional Breach of Contract**

**THIRTEENTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs “1” through “27”, “28” through “33”, “34” through “38”, “39” through “43”, and “44” through “48” with the same force and effect as though the same were set forth at length herein.

**FOURTEENTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered “50” and “51”.

**AS TO THE SIXTH CAUSE OF ACTION- Breach of Guarantee**

**FIFTEENTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs “1” through “27”, “28” through “33”, “34” through “38”, “39” through “43”, “44” through “48”, and “49” through “51” with the same force and effect as though the same were set forth at length herein.

**SIXTEENTH:** Deny each and every allegation of the Complaint contained in Paragraphs numbered “53”, “54”, “55”, “56”, and “57”.

**AS TO THE SEVENTH CAUSE OF ACTION**  
**Declaration Judgment – Termination of Trade Mark and**  
**Trade Name License Agreements**

**SEVENTEENTH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs “1” through “27”, “28” through “33”, “34” through “38”, “39” through “43”, “44” through “48”, “49” through “51” and “52” through “57” with the same force and effect as though the same were set forth at length herein.

**EIGHTEENTH:** Deny knowledge or information sufficient to form a belief as to the allegations of the Complaint contained in Paragraph numbered "59".

**NINETEENTH:** Deny each and every allegation of the Complaint contained in Paragraph numbered "60".

**AS TO THE EIGHTH CAUSE OF ACTION**  
**Declaratory Judgment- Enforcement of Security Agreements**

**TWENTIETH:** Defendants repeat and reiterate each and every denial and admission contained in Paragraphs "1" through "27", "28" through "33", "34" through "38", "39" through "43", "44" through "48", "49" through "51", "52" through "57" and "58" through "60" with the same force and effect as though the same were set forth at length herein.

**TWENTY-FIRST:** Deny each and every allegation of the Complaint contained in Paragraphs numbered "62" and "63".

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE ON**  
**BEHALF OF DEFENDANTS TRUCKNOLOGY and GREENBAUM**

**TWENTY-SECOND:** On or about 2005, the Plaintiff terminated its purported leases with TRUCKNOLOGY by transferring the registration and insurance for the leased vehicles to THE BRONX TRUCK RENTAL CORP. without the execution of new leases or an assignment of the current purported lease or execution of guarantees. As a result of same, this Action should be dismissed as against the named Defendants by reason of the doctrines of estoppel and release.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**  
**ON BEHALF OF DEFENDANT GREENBAUM**

**TWENTY-THIRD:** That the Plaintiff, its agents, servants and employees, forged the name of EUGENE GREENBAUM on 22 of the leases, purported guarantees and ancillary documents, and same were not executed by GREENBAUM in his corporate or individual capacities.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE  
ON BEHALF OF DEFENDANT GREENBAUM**

**TWENTY-FOURTH:** That the purported guarantees do not confer individual or personal liability upon the Defendant GREENBAUM in that there were executed as follows: "Trucknology, Inc., a New York Corporation by \_\_\_\_\_, its President, Guarantor."

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

**TWENTY-FIFTH:** That the Plaintiff, who is not a licensed or admitted insurance company, broker or self-insured corporation recognized in the State of New York charged and collected from the Defendant TRUCKNOLOGY, a monthly vehicle insurance fee when such insurance had not been procured or available to the Defendant TRUCKNOLOGY and in violation of Sections 2502, 2503 and 2102 of the New York State Insurance Law. As such, the leases are void because of their illegality.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

**TWENTY-SIXTH:** That the Plaintiff's leases violate the New York State Insurance Law and the Rules and Regulations promulgated thereunder by requiring the named lessee to procure insurance and to acquire insurance from a named and designated insurer. As such, the leases are void by reason of their illegality.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

**TWENTY-SEVENTH:** That the Plaintiff billed and charged Defendants for property damage insurance coverage on a monthly basis without acquiring or providing such insurance on the subject vehicles and without honoring or providing payment(s) for numerous claims made regarding damages to such vehicles.

**TWENTY-EIGHTH:** As a result of the Plaintiff's failure to honor its obligations, the Defendant TRUCKNOLOGY was unable to use many of the vehicles due to the damaged and unrepaired condition; suffered loss of rents and profits by reason of the Defendant's inability to utilize such vehicles and incurred costs in the storage and upkeep of such

vehicles in the approximate amount of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS.

**TWENTY-NINTH:** That the Defendant TRUCKNOLOGY is entitled to a set-off for any sums claimed due by reason of such conduct on the part of the Plaintiff.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

**THIRTIETH:** That on or about March, 2007, the Defendant TRUCKNOLOGY honored the Plaintiff's request to assemble 26 of the subject vehicles in Newburgh, New York for the Newburgh Automobile Auction and to apply the proceeds realized from such Auction to the Lease End Value ("LEV") of each vehicle.

**THIRTY-FIRST:** That the Defendant, at its cost and expense delivered such vehicles to the Plaintiff and Plaintiff's agent auctioneer.

**THIRTY-SECOND:** At the auction the Defendants were prohibited and barred by the Plaintiff and its agents from being present at the auction, participating in the auction or obtaining any information regarding the manner and ultimate disposition of the vehicles.

**THIRTY-THIRD:** As a result of same such sale was not commercially reasonable, prevented the Defendant TRUCKNOLOGY from redeeming such vehicles and was otherwise in violation of Article 9 UCC, 9-504 UCC. By reason of such violations and actions, the Plaintiff is not entitled to obtain a deficiency judgment against Defendants regarding the LEV.

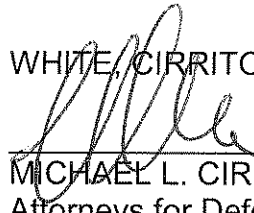
**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

**THIRTY-FOURTH:** That the sale of the vehicles, as set forth in the Seventh Affirmative Defense above, was consummated by the Plaintiff and Plaintiff's agents without the proper written notification to the purported guarantor, Defendant GREENBAUM, without giving Defendant GREENBAUM the right or ability to acquire such vehicles by bid at the Auction, and in violation of the UCC.

**THIRTY-FIFTH:** As a result, the Plaintiff is not entitled to any deficiency judgment against the purported guarantor, Defendant GREENBAUM, for same.

**WHEREFORE**, the Defendants **TRUCKNOLOGY, INC.** incorrectly sued herein as TRUCKNOLOGY, INC. a/k/a THE BRONX RENTAL CORP., and **EUGENE GREENBAUM**, demands judgment dismissing the Complaint, together with the costs, disbursements and attorneys' fees herein, and for such other and further relief as to this Court may seem just and proper.

Dated: Hempstead, NY  
June 9, 2008

By:  WHITE, CIRRITO & NALLY, LLP  
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